UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
NGUYEN, LEE

ART UNIT	PAPER NUMBER
2682	

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.		Applicant(s)	
Office Action Summary		09/634,488		MAKELA ET AL.	
		Examiner		Art Unit	
		LEE NGUYEN		2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 October 2003*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,12,13,15,20-42 and 51-108* is/are pending in the application.

    4a) Of the above claim(s) *21-41* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,12,13,15,20,42 and 51-108* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1.   This action is responsive to the communication filed 10/30/2003.

Claims 2-11, 14, 16-19, 43-50 have been canceled.

Claims 21-41 are withdrawn from consideration.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in

this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1, 12-13, 15, 20, 42, and 51-108 are rejected under 35

U.S.C. 102(e) as being anticipated by Olofsson et al. (US 6,647,265).

Regarding claim 1, Olofsson teaches a method for selecting a bearer

service for communication between a mobile terminal and a mobile

network, the mobile terminal comprising an application execution

environment for executing at least one application provided by a

manufacturer of the mobile terminal or a third party manufacturer and the

mobile network providing at least one bearer service, comprising: gathering

a set of requirements for a bearer service to be selected for communication

between the mobile terminal and the mobile network (col. 1, lines 20-27,

col. 6, lines 15-20); obtaininginformation about bearer services selectable

in the mobile network (col. 2, 26-27, col. 6, lines 15-20); performing a

comparison between said set of requirements for a bearer service and said

information obtained about bearer services selectable in the mobile

network in order to determine whether any of said selectable bearer

services substantially fulfils said set of requirements for a bearer service

(col. 2, lines 31-33); and if said comparison indicates that at least one of

said selectable bearer services substantially fulfils said set of requirements

for a bearer service, selecting a selectable bearer service which

substantially fulfils said set of requirements as a bearer service for

communication (col. 2, lines 35-38); wherein said step of gathering a set of

requirements for a bearer service is performed by the application execution

environment in the mobile terminal, said application execution environment

being activated to perform said step of gathering a set of requirements for a

bearer by a service request to start an application, said step of gathering a

set of requirements including gathering requirements for a bearer service

from the application to be started via a logical interface provided for communication between applications and the application execution environment (col. 1, lines 20-27).

Regarding claim 12, Olofsson inherently teaches forming a bearer service request network message in the mobile terminal on the basis of said set of requirements for a bearer services; sending said bearer service request network message to the mobile network; forming a bearer service reply network message in the mobile network on the basis of said selectable bearer services and said bearer service request network message, and sending said bearer service reply network message to the mobile terminal (see satisfied requirement, col. 2, lines 35-38).

Regarding claims 13 and 15, Olofsson inherently teaches the renegotiation, comprising: defining a new set of requirements for lea bearer service to

be selected for communication between the mobile terminal and the mobile network; forming a bearer service request: network message in the mobile terminal on the basis of said new set of requirements; sending said bearer service request network message to the

mobile network; forming a bearer service reply network message in the mobile network on the basis of said bearer service request network message and said bearer services selectable in the mobile network; comprising a suggestion for a new bearer service to be used in communication between the mobile terminal and the mobile network; sending said bearer service reply network message to the mobile terminal; and performing one of the following steps in the mobile terminal: either accepting the suggestion for a new bearer service, if said new bearer service substantially fulfils the new set of requirements for a bearer service, whereupon communication between the mobile terminal and the mobile network is continued with said new bearer service, or rejecting the suggestion for a new bearer service, if said new bearer service does not substantially fulfill the new set of requirements for a bearer service, whereupon communication between the mobile terminal and the mobile network is terminated (see col. 2, lines 46-55, renegotiate).

Regarding claim 20, Olofsson also teaches that the user of the mobile terminal is informed of the selectable bearer services, wherein the user can perform the selection of lea bearer service (col. 2, lines 35-38).

Regarding claim 42, the claim is interpreted and rejected for the same reason as set forth in claim 1.

Regarding claim 51, Olofsson also teaches that the application to be started provides the execution environment with information about its bearer service requirements via said logical interface in a formatted data packet (col. 2, lines 7-8).

Regarding claim 52, Olofsson also teaches that the application execution environment further gathers information about bearer service requirements from the mobile terminal via an interface between the application execution environment and an information store comprising information about properties of the mobile terminal (col. 1, lines 34-35).

Regarding claim 53, Olofsson also teaches that the application execution environment further gathers information about bearer service requirements of the mobile terminal from the mobile network (col. 8, lines 55-60).

Regarding claim 54, Olofsson also teaches that the application execution environment further gathers information about bearer service requirements via an interface between the application execution environment and an information store comprising

information about user preferences (col. 1, lines 58).

Regarding claim 55, Olofsson also teaches that the application

execution environment further gathers information about bearer service

requirements from a user of the mobile terminal via a user interface of the

mobile terminal (col. 1, lines 25-27).

Regarding claim 56, Olofsson also teaches the application execution

environment further gathers user subscription information from the mobile

network (col. 1, lines 30-37).

Regarding claim 57, Olofsson also teaches that the application

execution environment priorities said set of requirements for a bearer

service (col. 2, lines 15-22).

Regarding claim 58, Olofsson also teaches that the application

execution environment resolves contradictory requirements in said set of

requirements for a bearer service (col. 2, lines 51-54).

Regarding claim 59, Olofsson also teaches that said comparison to

determine whether any of said selectable bearer services substantially

fulfils said set of requirements for a bearer service is performed in the

mobile network (col. 2, lines 35-38).

Regarding claim 60, Olofsson also teaches that said comparison to determine whether any of said selectable bearer services substantially fulfils said set of requirements for a bearer service is performed in the mobile terminal (col. 2, lines 38-41).

Regarding claim 61, Olofsson also teaches that the subscription information of the user is examined in connection with performing said comparison (col. 1, lines 30-37).

Regarding claim 62, Olofsson also teaches that the subscription information of the user is examined in connection with performing said comparison (col. 1, lines 30-37).

Regarding claim 63, Olofsson also teaches that the traffic condition of the mobile network is examined in connection with performing said comparison (col. 2, lines 46-55).

Regarding claim 64, Olofsson also teaches that the traffic condition of the mobile network is examined in connection with performing said comparison (col. 2, lines 46-55).

Regarding claim 65, Olofsson also teaches that a capability of a remote network is examined in connection with performing said comparison (col. 3, lines 19-24).

Regarding claim 66, Olofsson also teaches that a capability of a remote network is examined in connection with performing said comparison (col. 3, lines 19-24).

Regarding claim 67, Olofsson also teaches that the application execution environment forms said bearer service request network message (col. 1, lines 25-27).

Regarding claim 68, Olofsson also teaches that the application execution environment receives and processes said bearer service reply network message (col. 1, lines 25-27).

Regarding claim 69, Olofsson also teaches that said bearer service reply network message comprises a suggestion for a bearer service to be selected for communication (col. 2, lines 35-38).

Regarding claim 70, Olofsson also teaches that the application execution environment informs an application about a bearer service granted for the application (col. 1, lines 25-27, col.2, lines 35-38).

Regarding claim 71, Olofsson also teaches that the application execution environment provides the application with information about the granted bearer service in a formatted data packet (col. 2, lines 7-8).

Regarding claim 72, Olofsson also teaches that at least one quality of service class is defined in the mobile network and at least one bearer service is defined for said at least one quality of service class (col. 1, lines 20-27).

Regarding claim 73, Olofsson also teaches that a preferred quality of service class is defined for an application (col. 1, lines 20-27).

Regarding claim 74, Olofsson also teaches that information about said preferred quality of: service class defined for said application is included in said set of requirements for a bearer service and is sent to the mobile network in said bearer service request network message (col. 1, lines 20-27).

Regarding claim 75, Olofsson also teaches that a renegotiation phase is performed in order to select. a new bearer service for communication between the mobile terminal and the mobile network (col. 2, lines 51-55).

Regarding claim 76, Olofsson also teaches that said renegotiation phase is initiated by one of the following: an application running in the mobile terminal; a user of the mobile terminal (col. 2, lines 51-55).

Regarding claim 77, Olofsson also teaches that said renegotiation

phase is performed when at least one bearer service requirement of the

application has changed (col. 9, lines 33-39).

Regarding claim 78, Olofsson also teaches that the application

execution environment defines said new set of requirements for a bearer

service (col. 2, lines 46-55).

Regarding claim 79, Olofsson also teaches that the application

execution environment forms said bearer service request network message

(col. 2, lines 46-55).

Regarding claim 80, Olofsson also teaches that the application

execution environment provides the application with information about the

new bearer service (col. 2, lines 46-55).

Regarding claim 81, Olofsson also teaches that the application

execution environment provides the application with information about the

new bearer service in a formatted data packet (col. 2, lines 46-55).

Regarding claim 82, Olofsson also teaches that the application

performs said steps of accepting or rejecting the new bearer service (col. 2,

lines 46-55).

Regarding claim 83, Olofsson also teaches that said renegotiation

phase is performed when at least one property of the mobile terminal has

changed (col. 9, lines 13-26, 22-29).

Regarding claim 84, Olofsson also teaches that said

renegotiation phase is initiated by the mobile network (col. 9, lines 37-39).

Regarding claim 85, Olofsson also teaches that the application

execution environment is arranged to receive information about bearer

service requirements of said application to be started via said logical

interface (col. 2, lines 7-8).

Regarding claim 86, Olofsson also teaches that the application

execution environment is arranged to communicate information about a

selected bearer service to said application to be started via said logical

interface (col. 2, lines 7-8).

Regarding claim 87, Olofsson also teaches that the application

execution environment is arranged to receive information about a change in

a property of said application via said interface (col. 9, lines 33-39).

Regarding claim 88, Olofsson also teaches that the application

execution environment is arranged to communicate information about a

change in a bearer service to said application via said interface (col. 9, lines 33-39).

Regarding claim 89, Olofsson also teaches an interface for communicating information about at least one property of the mobile terminal to said application execution environment (col. 1, lines 34-45).

Regarding claim 90, Olofsson also teaches that the application execution environment is arranged to receive via said interface information about said at least one property of the mobile terminal from an information store in the mobile terminal comprising information about properties of the mobile terminal (col. 1, lines 34-45).

Regarding claim 91, Olofsson also teaches that the application execution environment is arranged to receive information about a property of the mobile terminal from the mobile network (col. 8, lines 55-60).

Regarding claim 92, Olofsson also teaches comprising an interface for communicating information about at least one user preference to said application execution environment (col. 1, line 58).

Regarding claim 93, Olofsson also teaches that the application execution environment is arranged to receive via said interface information about said preference of a user from an information store comprising

information about user preferences (col. 1, line 58).

Regarding claim 94, Olofsson also teaches that the application

execution environment is arranged to receive information about a

preference of a user as input from the user via a user interface of the

mobile terminal (col. 1, lines 25-27, and 58).

Regarding claim 95, Olofsson also teaches comprising a user

interface for informing a user of selectable bearer services (col. 2, lines 38-

41 and col. 5, lines 10-29).

Regarding claim 96, Olofsson also teaches comprising a

User interface for enabling a user to select a bearer service (col. 2, lines

38-41 and col. 5, lines 10-29).

Regarding claim 97, Olofsson also teaches that the application

execution environment is arranged to receive user subscription information

from the mobile network (col. 4, lines 30-51).

Regarding claim 98, Olofsson also teaches that the application

execution environment is arranged to prioritize said set of requirements for

a bearer service (col. 4, lines 48-51).

Regarding claim 99, Olofsson also teaches that the application

execution environment is arranged to resolve contradictory requirements in

said set of requirements for a bearer service (col. 2, lines 51-54).

Regarding claim 100, Olofsson also teaches comprising means for

forming a bearer service request network message on the basis of said set

of requirements for a bearer service; means for sending said bearer service

request network message to the mobile network; and means for receiving a

bearer service reply network message from the mobile network (see the

rejection of claim 12).

Regarding claim 101, Olofsson also teaches that the application

execution environment is arranged to form said bearer service request

network message (col. 2, lines 35-38).

Regarding claim 102, Olofsson also teaches that the application

execution environment is arranged to receive and process said bearer

service reply network message (col. 2, lines 35-38).

Regarding claim 103, Olofsson also teaches comprising means for

obtaining information about bearer services selectable in the mobile

network and means for comparing said set of requirements for a bearer

service and said information obtained about bearer services selectable in the mobile network (see the rejection of claim 1).

Regarding claim 104, Olofsson also teaches, comprising: means for defining a new set of requirements for a bearer service to be selected for communication between the mobile terminal and the mobile network; means for forming a bearer service request network message on the basis of the new set: of requirements for a bearer service; means for sending said bearer service request network message to the mobile network; means for receiving a bearer service reply network message from the mobile network; means for accepting a change in bearer service, if said new bearer service substantially fulfils said set of requirements for a bearer service; and means for rejecting a change in bearer service, if said new bearer service does not substantially fulfill said set of requirements for a bearer service (see the rejection of claim 13).

Regarding claim 105, the claim is interpreted and rejected for the same reason as set forth in claim 78.

Regarding claim 106, the claim is interpreted and rejected for the same reason as set forth in claim 79.

Regarding claim 107, the claim is interpreted and rejected for the same reason as set forth in claim 80.

Regarding claim 108, the claim is interpreted and rejected for the same reason as set forth in claim 81.

Response to Arguments

4.   Applicant's arguments with respect to claims 1, 12-13, 15, 20, 42 and 51-108 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

LEE NGUYEN
Primary Examiner
Art Unit 2682